



**Economic Impact Analysis
Virginia Department of Planning and Budget**

18 VAC 65-20 – Regulations of the Board of Funeral Directors and Embalmers
Department of Health Professions
April 18, 2008

Summary of the Proposed Amendments to Regulation

The Board of Funeral Directors and Embalmers (Board) proposes to amend existing regulatory sections in its regulations to:

- Require crematories to name a manager of record who will be responsible for ensuring that the crematory follows all relevant laws and regulations,
- Require that the Board receive written notification when a crematory changes mailing address or owner,
- Require all managers of record and crematory operators to become certified by the Cremation Society of North America (CANA), International Cemetery, Cremation and Funeral Association (ICCF) or any other certification program that might, in the future, be recognized by the Board,

Additionally, the Board proposes to add a new section to these regulations that would:

- Mandate that crematories obtain a signed authorization before cremation,
- Require remains to be transported in a container that is combustible, has a cover, is resistant to spillage or leakage and is rigid enough to support the weight enclosed in it,
- Require that identifying information be attached to any decedent awaiting cremation as well as to the outside of the cremation container,
- Require crematories to maintain all records of cremation for three years,
- Prohibit crematories from requiring remains to be placed in a casket before cremation or requiring that remains be placed in an urn,

- Require crematories to refrigerate remains if they are not to be cremated immediately upon receipt (unless remains have been embalmed) and
- Set acceptable cremation standards including prohibiting multiple decedents from being cremated at one time, in one retort, without specific written authorization and prohibiting cremation of non-human remains in the same retorts that are used to cremate human remains.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Current regulations contain fairly minimal standards for registration of crematories. Currently, crematories all must be registered with the Board; crematories that offer services directly to the public must also be licensed as a funeral service establishment (or be a branch of a licensed funeral establishment) and are subject to Board discipline if human remains are inappropriately handled or if the law is broken.

The Board proposes to amend this section governing registration to require crematories to have a manager of record who will be responsible for making sure crematory practices do not break the law or requirements of these regulations. The Board also proposes to require (in this section) that managers of record and crematory operators achieve certification by either CANA, the ICCFA or any other group that may get Board approval in the future. The Department of Health Professions (DHP) reports that CANA charges \$495 for a short (weekend-long) certification class that teaches the material that is covered in the crematory operators test which costs \$175. DHP also reports that CANA will come into the state and hold classes at various locations (as demand dictates) and that some individuals in the state have already taken the certification class and, so, would only have to pass the exam to be certified. DHP does not know the exact costs for ICCFA certification but believes it is equivalent to that for the CANA program.

Initially, Crematory operators and managers who have no previous training will likely incur costs for obtaining certification that include fees of approximately \$670 (\$495+\$175) plus any travel costs incurred to obtain training and the value of the time spent on training and taking

the certification exam. Crematory operator and managers who have already taken a training class will likely only incur costs associated with taking the certification exam (\$175 fee plus the value of time spent studying for and taking the exam). Individuals who have obtained crematory operator certification can train others without obtaining any further credentials; so once funeral homes/crematories have certified individuals on staff, newly hired staff would be likely to receive training in-house. If this happens, costs for new certification would drop to exclude the (CANA, ICCFA) fee for training but would newly include the opportunity cost of staff time spent training. Funeral home/crematory staff who receive certification will benefit from training that concentrates on proper handling of remains and cremation processes as well as relevant laws because they will be less likely to run afoul of law enforcement or regulatory authorities. The public will likely benefit from certification requirements, and from the requirement that crematories have a manager of record, because crematory staff who are made aware of the law and expected standards, and who are held responsible for following those laws and standards, are less likely to mishandle decedents. Benefits likely outweigh costs for amendments to this regulatory section.

In addition to amending existing rules for registration of crematories, the Board proposes to add a new regulatory section to govern standards for cremation authorization, standards for cremation, handling human remains and recordkeeping. This new regulatory section consists mostly of requirements that are already expected minimal standards of practice for the industry/the law. To the extent that any crematories have not been following these standards, they will incur costs on account of these proposed regulations. Costs will vary according to what standards are not currently followed. Crematories that have not been keeping records, for instance, would incur costs for compiling required information and for storage. Any costs incurred by the regulated community may be offset by the benefit of increased clarity of rules under which they are supposed to operate. To the extent that these standards have not been followed, the public will benefit from having them explicitly promulgated into regulations because they will now have access to rules that, for instance, prohibit crematories from requiring the purchase of expensive caskets or urns. The Board will be better able to enforce these standards once they are explicitly written into regulation.

Businesses and Entities Affected

These proposed regulations will affect all funeral homes that operate crematory facilities, all independent crematories, managers of crematories and all crematory operators. DHP reports that there are 507 licensed funeral establishments and 76 registered crematories in the Commonwealth. DHP can not easily ascertain how many licensed funeral establishments also provide in-house crematory services, but it is likely that most of the 76 crematories registered with the Board fall into this category. Because crematory operators are not currently required to register with the Board, DHP does not have data that would indicate how many of these individuals currently work in the Commonwealth.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

Because certification requirements will slightly increase the cost of becoming a crematory operator, slightly fewer people are likely to pursue employment in this field. Given that long-run costs will be small (\$175 plus cost of time spent taking the certification test), this effect will likely be negligible.

Effects on the Use and Value of Private Property

To the extent that this regulatory action increases costs for funeral homes and crematories, this regulatory action may slightly decrease the value of these establishments. This effect may be partially or completely offset if this regulatory action increases public confidence in, and demand for, crematory services

Small Businesses: Costs and Other Effects

DHP reports that 350 of the 507 funeral establishments that the Board licenses would qualify as small businesses. To the extent that these establishments have not been following the standards that are being promulgated into regulations, they might incur costs. These costs will vary according to which standards will be newly implemented and might include bookkeeping and storage fees for record keeping, costs incurred in purchasing sturdier cremation containers, etc.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are likely no alternative methods to accomplish the Board's goal that would be less costly than the methods mandated by these proposed regulations.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.